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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/856,321	11/19/2001	Oskar Dauner	051480-5045	6679

7590 09/09/2003

Morgan Lewis & Bockius
1701 Market Street
Philadelphia, PA 19103-2921

EXAMINER

NGUYEN, TAN QUANG

ART UNIT	PAPER NUMBER
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3661

DATE MAILED: 09/09/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/856,321

Applicant(s)

DAUNER ET AL.

Examiner

TAN Q NGUYEN

Art Unit

3661

The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 July 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.



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APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
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EXAMINER

ART UNIT	PAPER
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10

DATE MAILED:

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

TAN Q NGUYEN
Primary Examiner
Art Unit: 3661

DETAIL ACTION

Notice to Applicant(s)

1. This office action is response to the amendment filed on July 14, 2003. As per requested, claims 1, 6 and 7 have been amended. Thus, claims 1-13 are still pending. In the amended claim 1, it is unclear what are you trying to amend regarding the commas on line 8. Do you want to delete them?
2. The rejection under 35 USC § 112, second paragraph has been withdrawn based on the amended claims.
3. On page 7, line 19, the phrase "operator console 19" should be -- operator console 9 --.
4. Receipt is acknowledged of papers submitted under 35 U.S.C. § 119, which have been placed of record in the file.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:
A person shall be entitled to a patent unless --

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

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The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

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6. Claims 1-4 and 7-11 are rejected under 35 U.S.C. § 102(e) as being anticipated by Eitzenberger (6,023,232).

7. With respect to claim 1, Eitzenberger discloses the claimed invention which includes at least one processor unit for controlling a plurality of applications (see at least the abstract), a plurality of operator consoles which are connected to the processor unit and having user interfaces for accessing the applications and for data playback (see at least figure 1 and column 3, lines 52-65), and a central system controller having a priority management system for allocating to the individual operator consoles access rights with different degrees of priority to the application (see at least column 2, lines 30-50, column 3, lines 22-51, and column 7, line 32 to column 8, line 4).

8. With respect to claim 2, such feature is shown in at least column 4, lines 26-56 of the Eitzenberger reference.

9. With respect to claim 3, 8 and 9, such features are also shown in the Eitzenberger reference in at least figure 1 and the related text.

10. With respect to claim 4, Eitzenberger discloses the priority management system allocates to the applications individual access rights to a data bus and/or to the processor unit (see at least column 4, line 66 to column 5, line 20).

11. With respect to claim 7, Eitzenberger also discloses such feature in at least column 5, line 66 to column 6, line 20).

12. With respect to claim 10, it is a method claim corresponding to apparatus claim 1. Therefore, claim 10 is rejected for the same rationales set forth for claim 1.

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With respect to claim 11, the at least user prompting at the man/machine is inherently disclosed in the Eitzenberger reference via the interfaces of the associated devices as shown in at least figure 1 and column 3, lines 52-59.

Claim Rejections - 35 USC § 103

13. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

14. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(f) or (g) prior art under 35 U.S.C. 103(a).

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15. Claims 5 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Eitzenberger as applied to the claimed above, and further in view of Sridhar et al. (5,960,035).

16. Eitzenberger discloses the claimed invention as discussed above except that the priority management system allocates to the applications access to the data bus as a function of the loading of the data bus at that time and at least one low-level application can be aborted or reduced the data transmission rate. However, such features are taught in the Sridhar et al. in at least the abstract, figures 3, 5, 6, and columns 6-10). It would have been obvious to one ordinary skill in the art at the time the invention was made to incorporate the teaching of Sridhar et al. into the system of Eitzenberger in order to provide the system with the enhanced capability of prioritizing the access rights to the applications based on the loading of the data bus.

Remarks

17. All claims are rejected.

18. Applicant's arguments filed on July 14, 2003 have been fully considered but they are not deemed to be persuasive.

19. In the amendment, applicants argue that the reference used fails to disclose the actual operator consoles. Applicant's attention is directed to at least the abstract, figure 1, and column 4, lines 33-43 in which it discloses such feature. Applicant further argued that the reference used do not establish prima facie obviousness since not all the claimed limitations must be taught or suggested in the prior art. However, upon examination of the claims, the references cited clearly cover the subject matter AS

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CLAIMED by the applicants as recited in the previous action. Therefore, the rejection under 35 U.S.C. § 103 is considered to be proper.

20. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

21. Any inquiry concerning this communication or earlier communications from the examiner should be directed to examiner Tan Nguyen, whose telephone number is (703) 305-9755. The examiner can normally be reached on Monday-Thursday from 5:30 AM-4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, William Cuchlinski, can be reached on (703) 308-3873.

Any response to this action should be mailed to:

Commissioner of Patents and Trademarks
Washington, D.C. 20231

or faxed to:

(703) 872-9306, (for informal or draft communications, please label "PROPOSED" or "DRAFT")

Application/Control Number: 09/856,321

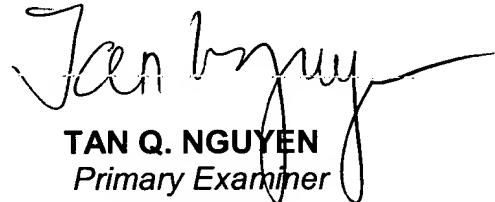
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Hand-delivered responses should be brought to Crystal Park V, 2451
Crystal Drive, Arlington. VA., Seventh Floor (Receptionist).

Any inquiry of a general nature or relating to the status of this application should be
directed to the Group receptionist whose telephone number is (703) 308-1113.

/tqn
September 6, 2003


TAN Q. NGUYEN
Primary Examiner
Art Unit 3661